

THE HUMAN RIGHT TO SANITATION

I Introduction

1. The World Health Organisation and the United Nations Children's Fund in their 2012 Joint Monitoring Programme report estimated that more than 2.5 billion people do not have access to improved sanitation. The WHO estimates that every year approximately 1.4 million children die from diarrhoeal disease, the vast majority of which is due to inadequate access to water, sanitation and hygiene¹. Yet in many countries sanitation does not receive the political priority it merits. Access to sanitation is one of the most off-track Millennium Development Goal targets. Unless the pace of change in the sanitation sector can be accelerated, the MDG target will not be reached until 2026.

II Is there a human right to sanitation in international law?

2. Yes. The right to sanitation is an element of "the right of everyone to an adequate standard of living for himself and his family" (Article 11 of the International Covenant on Economic, Social and Cultural Rights or ICESCR). The UK considers that a right to sanitation entails achieving the outcome of providing a system for the treatment and disposal or re-use of human sewage and associated hygiene. It entitles right-holders to reasonable access to the elements of the right, but allows for recovery of the cost of providing such access, including any environmental and resource costs. The right does not prescribe any particular model of delivery for public and private sectors. It also does not require the collection and transport of human waste.
3. As with other rights set out in the ICESCR, the right to an adequate standard of living is to be achieved progressively by states, within their available resources. The right to sanitation is not a free-standing right or a right under customary international law. Nor is it derived from other rights such as the right to life.
4. The United Nations Committee on Economic, Social and Cultural Rights' Statement of 19 November 2010 and the 2009 report of the Independent Expert on water and sanitation contain some useful guidance for governments on how to meet their obligations. The UK does not accept these documents in their entirety but we regard them as an important contribution to the debate about what having a right to sanitation means.

III How does the UK government interpret the human right to sanitation?

5. It is up to each state to decide which measures are required to fulfil its obligations. However, states have a duty to take whatever steps they can to ensure that everyone enjoys the right to sanitation, without discrimination. States must also monitor their progress in realising this right, and must have regard to sustainability and for the need for the right to be realised by present and future generations.

¹ Prüss-Üstün A, Bos R, Gore F, Bartram J. (2008) Safer water, better health: costs, benefits and sustainability of interventions to protect and promote health. World Health Organization, Geneva, 2008.

6. Whilst states have overall responsibility for ensuring realisation of the right to sanitation, the manner in which services are provided, managed or regulated will be determined by each individual state. The right does not prescribe any particular model or role for public and private sectors or for civil society, and non-state providers may be central to realising the right.
7. Sanitation has to be accessible to everyone without discrimination. *Accessible* means reasonably physically and economically accessible. Economic accessibility means provision of sanitation must be based on a principle of cost recovery and people's ability to pay or contribute towards costs.

IV Why should DFID support developing countries in realising the human right to sanitation?

8. The UK Government is committed to supporting developing country governments in their efforts to expand sustainable and equitable access to water and sanitation, with the ultimate aim of achieving universal access. Recognising access to sanitation as a human rights support this objective and encourages an inclusive approach. DFID sees human rights as integral to empowering people to express their voice and take control of their own development. Enhanced transparency and accountability are a strong focus for DFID and are critical enablers to empowering people to claim their human rights.
9. We believe that recognition of the right will complement DFID's efforts on the tangible commitments we have made to ensure expanded access to sanitation, water and hygiene in the developing world. There are a number of benefits:
 - (i) The right sets a standard, based on universally shared values.
 - (ii) The right to sanitation encompasses the range of principles which underpin all human rights such as participation, inclusion and accountability. These principles strengthen the case for incorporating good practice into the *process* of planning and delivering sanitation, such as poor people's participation in decision-making processes.
 - (iii) Since everyone can claim equal entitlement to human rights, the right to sanitation gives states responsibility for ensuring reasonable access to sanitation for all, including the poor and socially excluded. This means that states must seek to ensure that the steps they take are non-discriminatory.
 - (iv) The right requires governments to have in place an adequate system for monitoring progress.

V How will DFID support implementation of the human right to sanitation?

10. We will support partner governments to fulfil their obligations under the ICESCR and we will strengthen the ability of people living in poverty in developing countries to claim their right to sanitation through programmes that enhance voice, transparency and accountability. Our existing programming encompasses the following activities that support the right to sanitation and our recognition of the right underlines our commitment to these activities:

- (i) strengthening political and policy support for meeting the needs of the poorest;
- (ii) helping to make public institutions more accountable to the poor, including supporting improved access to information through approaches such as innovation using mobile telephone technology, where appropriate;
- (iii) building the capacity of those responsible for making progress towards universal access;
- (iv) supporting measures to tackle discrimination and social and cultural practices which exclude particular groups from accessing services;
- (v) strengthening the legal and policy framework for accessing sanitation;
- (vi) supporting public expenditure reviews and other analysis of budget allocation to ensure that sanitation service provision is targeting poor people;
- (vii) supporting national and local monitoring systems (with disaggregated data), including state reporting on treaty obligations;
- (viii) supporting measures to increase poor people's voice and participation in processes which affect their rights;
- (ix) strengthening the capacity of poor and excluded groups to make claims through legal, political and social channels, including support for community advocacy and action.